

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 2 of the Commission's Rules)	ET Docket No. 00-258
to Allocate Spectrum Below 3 GHz for Mobile)	
and Fixed Services to Support the Introduction of)	
New Advanced Wireless Services, including)	
Third Generation Wireless Systems)	
)	
Service Rules for Advanced Wireless Services)	WT Docket No. 02-353
In the 1.7 GHz and 2.1 GHz Bands)	

ORDER ON RECONSIDERATION

Adopted: November 14, 2007

Released: November 15, 2007

By the Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. This order resolves two petitions for reconsideration of the *Clearinghouse Order*, which set forth the details of the duties and responsibilities of the clearinghouses that were selected to administer the Commission's cost-sharing plan under the incumbent relocation procedures for the 2110-2200 MHz band (2.1 GHz band) adopted in the above-captioned proceedings.¹ The *Clearinghouse Order* announced the first date of clearinghouse operations, thereby formally selecting PCIA—The Wireless Infrastructure Association (PCIA) and CTIA—The Wireless Association® (CTIA) for the purposes of Sections 27.1162, 27.1166(a), and 27.1178 of the Commission's rules.² Petitions for reconsideration were filed by M2Z Networks, Inc. (M2Z) and the Society of Broadcast Engineers, Incorporated (SBE). In this Order, we deny and dismiss, respectively, these petitions for reconsideration.

¹Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00-258, Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, *Order*, 22 FCC Rcd 4680 (2007) (*Clearinghouse Order*). See also Wireless Telecommunications Bureau Finds CTIA and PCIA Qualified to Administer the Relocation Cost-Sharing Plan For Licensees in the 2.1 GHz Bands, *Public Notice*, 21 FCC Rcd 11265 (2006) (*Qualification PN*).

² 47 C.F.R. §§ 27.1162, 27.1166(a), and 27.1178.

II. BACKGROUND

2. In the *AWS Relocation and Cost Sharing Report and Order*,³ the Commission established procedures for the relocation of Broadband Radio Service (BRS) operations from the 2150-2160/62 MHz band and Fixed Microwave Service (FS) operations in the 2.1 GHz band, and adopted cost sharing rules to identify the reimbursement obligations for Advanced Wireless Service (AWS) and Mobile Satellite Service (MSS) entrants benefiting from the relocation of incumbent FS and/or BRS operations.⁴ The Commission also delegated authority to the Wireless Telecommunications Bureau (WTB or Bureau) to select one or more entities for the creation and management of a neutral, not-for-profit clearinghouse that would facilitate cost sharing among AWS and MSS⁵ entrants benefiting from the relocation of FS incumbents in the 2110-2150 MHz and 2160-2200 MHz bands and AWS entrants benefiting from the relocation of BRS incumbents in the 2150-60/62 MHz bands.⁶ The Commission stated that a clearinghouse(s) would be selected on the basis of criteria established by the Bureau, and that the Bureau would publicly announce the criteria and solicit proposals from qualified parties.⁷ The Commission also instructed the Bureau to solicit public comment on all proposals submitted and, after selecting the clearinghouse administrator(s), to announce the effective date of the cost sharing rules, including the filing requirements for reimbursement claims and relocation cost estimates.⁸ In doing so, the Commission noted that the Bureau could select more than one clearinghouse.⁹

3. By *Public Notice* released on June 15, 2006, the Bureau invited proposals from entities interested in serving as a neutral, not-for-profit clearinghouse responsible for facilitating cost sharing among entrants benefiting from the relocation of incumbent licensees in the 2.1 GHz bands.¹⁰ The Bureau also sought comment on whether more than one clearinghouse would be feasible, and required certifications that the entity would be able and willing to work with other clearinghouses if WTB selected more than one, as well as a certification that the entity is a not-for-profit organization and will

³ Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Service to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00-258, Service Rules for Advances Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, *Ninth Report and Order and Order*, 21 FCC Rcd 4473 (2006) (*recon. pending*) (*AWS Relocation and Cost Sharing Report and Order*).

⁴ *Id.*

⁵ MSS operators are required to participate in the clearinghouse for Ancillary Terrestrial Component (ATC) base stations, *see, e.g.*, 47 C.F.R. § 101.82(d), and may elect to submit claims for reimbursement to the AWS clearinghouse for FS links relocated due to interference from the MSS space-to-Earth operations. *See AWS Relocation and Cost Sharing Report and Order* at 21 FCC Rcd at 4522-4523 ¶¶ 93-96.

⁶ *See AWS Relocation and Cost Sharing Report and Order* at 21 FCC Rcd at 4527 ¶¶ 106-107.

⁷ *See AWS Relocation and Cost Sharing Report and Order* at 21 FCC Rcd at 4518, 4527 ¶¶ 83, 107.

⁸ *Id.*

⁹ *See* 47 C.F.R. § 27.1178. *See also AWS Relocation and Cost Sharing Report and Order* at 21 FCC Rcd at 4527 ¶ 107 ("we delegate to WTB the authority to select one or more entities to create and administer a neutral, not-for-profit clearinghouse").

¹⁰ *See* Wireless Telecommunications Bureau Opens Filing Window for Proposals to Develop and Manage the Clearinghouse that will Administer the Relocation Cost Sharing Plan for Licensees in the 2.1 GHz Bands, *Public Notice*, 21 FCC Rcd 6616 (2006) (*Clearinghouse PN*).

retain its not-for-profit status during the term of its operations. In addition, the Bureau sought comment on whether proposals that offer to administer cost sharing for both FS and BRS relocations are preferable to proposals that seek to administer cost sharing for only one of these relocation processes. The Bureau received two proposals and each proposed to administer cost sharing for both FS and BRS relocations.¹¹ On October 4, 2006, the Bureau concluded that the public interest was best served by selecting more than one clearinghouse in order to benefit the consumers of these services.¹² Accordingly, the Bureau found CTIA and PCIA, the two entities that filed proposals, qualified to serve as clearinghouse administrators, and the Bureau advised them to begin preparing their clearinghouse operations.¹³ As part of establishing the criteria for clearinghouses, the Bureau also stated that it would issue a subsequent Order setting forth details of the clearinghouses' duties and responsibilities.¹⁴

4. On March 8, 2007, the Bureau released the *Clearinghouse Order*, formally selecting PCIA and CTIA to serve as neutral, not-for-profit clearinghouses to administer the Commission's cost-sharing plan under the incumbent relocation procedures for the 2.1 GHz band and detailing their duties and responsibilities as clearinghouses. Petitions for Reconsideration of the *Clearinghouse Order* were filed by SBE on April 4, 2007, and M2Z on April 9, 2007. An opposition to SBE's Petition was filed by T-Mobile on April 16, 2007. SBE filed a reply to T-Mobile's opposition on April 27, 2007.

III. PETITIONS FOR RECONSIDERATION

A. M2Z Petition

5. On April 9, 2007, M2Z Networks, Inc. (M2Z) filed a Petition for Reconsideration (M2Z Petition) of the *Clearinghouse Order* pursuant to Section 1.429 of the Commission's rules.¹⁵ M2Z, which claims standing as an applicant and potential 2.1 GHz band licensee,¹⁶ asks the Bureau to remove CTIA's designation as a clearinghouse. M2Z alleges that CTIA has expressed a significant bias against M2Z, which suggests that CTIA would be incapable of serving as a neutral clearinghouse with respect to

¹¹ See CTIA – The Wireless Association® Clearinghouse Plan, filed July 17, 2006 (CTIA Plan); Clearinghouse Proposal of PCIA – The Wireless Infrastructure Association, filed July 17, 2006 (PCIA Plan).

¹² See *Qualification PN* at 21 FCC Rcd at 11266.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ M2Z Petition at 1 *citing* 47 C.F.R. § 1.429. M2Z avers that any interested person may petition for reconsideration of a final action in a rulemaking proceeding. See M2Z Petition at 3 *citing* 47 C.F.R. § 1.429(a).

¹⁶ M2Z Petition at 3-4. On May 5, 2006, M2Z filed an application (Application) seeking an exclusive, nationwide 15-year license in the 2155-2175 MHz band for its National Broadband Radio Service (NBRS). See WT Docket No. 07-16, Application of M2Z Networks, Inc. for License and Authority to Provide a National Broadband Radio Service in the 2155-2175 MHz Band, filed May 5, 2006 (*Application*). See also WT Docket No. 07-30, Petition of M2Z Networks, Inc. for Forbearance under 47 U.S.C. § 160(c) Concerning Application of Sections 1.945(b) and (c) of the Commission's Rules and Other Regulatory and Statutory Provisions, filed Sept. 1, 2006 (*Forbearance Petition*). M2Z's *Application* – along with all pending applications for license in the 2155-2175 MHz band – and its *Forbearance Petition* were dismissed (without prejudice) and denied, respectively, in a subsequent order. See Applications for License and Authority to Operate in the 2155-2175 MHz Band, WT Docket No. 07-16; and Petitions for Forbearance Under 47 U.S.C. § 160, WT Docket No. 07-30, *Order*, 22 FCC Rcd 16563 (2007) (*AWS-3 Applications and Forbearance Petitions Order*) (appeal pending before the U.S. Court of Appeals for the D.C. Circuit).

relocation matters involving M2Z.¹⁷ Specifically, M2Z bases its allegations on the fact that CTIA filed a Petition to Deny and other pleadings opposing M2Z's Application and Forbearance Petition.¹⁸ M2Z further alleges that some of CTIA's members individually opposed M2Z's Application and Forbearance Petition, thus making CTIA's opposition unnecessary.¹⁹ M2Z claims that by filing these oppositions, CTIA has demonstrated a bias against M2Z (which is itself a member of CTIA) in favor of other CTIA members,²⁰ and that if CTIA's filings were influenced by some of its other members, the Commission should be concerned about broader bias when CTIA performs its duties as a clearinghouse administrator.²¹ M2Z also points out that CTIA has stated that it will provide legal and regulatory personnel to assist the clearinghouse, raising concerns by M2Z that these people "will likely be the same personnel who are responsible for the adverse filings CTIA made against M2Z."²² M2Z asserts that the 2.1 GHz transition could be accomplished with only one clearinghouse, arguing that a single clearinghouse was able to handle the transition for microwave facilities in the 1.9 GHz band to vacate the band for PCS licensees.²³ Therefore, M2Z argues, PCIA should be able to handle the cost-sharing responsibilities as the sole clearinghouse.²⁴ M2Z asserts that, to avoid the possibility of discriminatory treatment against a potential 2.1 GHz licensee, the Bureau should remove CTIA's designation as a clearinghouse in the 2.1 GHz band.²⁵

6. *Discussion.* As a preliminary matter, we note two procedural issues for the record. First, although pled under Section 1.429, we observe that M2Z's Petition exclusively seeks reconsideration of the *Clearinghouse Order's* selection of CTIA as one of two organizations to serve as clearinghouses. The Bureau's selection of CTIA and PCIA as clearinghouses in the *Clearinghouse Order* is adjudicatory, and not the product of notice and comment rulemaking, as it essentially granted their "applications."²⁶ Thus, M2Z's petition for reconsideration is governed by Section 1.106 of the Commission's rules.²⁷ Second, M2Z's claim as an interested party with standing to seek reconsideration of the *Clearinghouse Order* is tenuous at best because only licensees—not applicants or potential licensees—participate in relocation

¹⁷ M2Z Petition at 1-2.

¹⁸ M2Z Petition at 5, citing CTIA Petition to Deny and CTIA Reply to M2Z's Consolidated Opposition to Petitions to Deny (WT Docket No. 07-16). CTIA's Petition to Deny was dismissed as moot in the *AWS-3 Applications and Forbearance Petitions Order*.

¹⁹ M2Z Petition at 6.

²⁰ M2Z Petition at 6-7.

²¹ M2Z Petition at 7.

²² M2Z Petition at 7.

²³ M2Z Petition at 8-9.

²⁴ M2Z Petition at 9.

²⁵ M2Z Petition at 2.

²⁶ See, e.g., 47 C.F.R. 0.331(a), (d).

²⁷ See 47 C.F.R. § 1.106(a)(1). The applicable 30-day period for filing Section 1.106 petitions began on March 8, 2007 (the release date of the *Clearinghouse Order*), and ended on April 9, 2007. See 47 C.F.R. §§ 1.106(f), 1.4(b)(2), (j).

and cost sharing. As an applicant or potential licensee,²⁸ M2Z has no cause for interaction with the AWS clearinghouses at present and any need for future interactions is purely speculative.²⁹ Thus, we find that M2Z has not established standing to petition for reconsideration of the Bureau's adjudicatory selection of CTIA in the *Clearinghouse Order*. Nonetheless, because we do not take allegations of clearinghouse misconduct lightly, we are deeming M2Z Petition to be an informal request for Commission action to remove CTIA's clearinghouse designation, and are reviewing M2Z's allegations under Section 1.41 of the Commission's Rules.³⁰

7. Turning to the merits of M2Z's allegations, the Bureau stated in the *Clearinghouse Order* that "CTIA and PCIA must provide clearinghouse services on a non-discriminatory, impartial basis."³¹ M2Z's Petition claims that CTIA's recent actions "undermine any claim it may have had that it could be considered a 'neutral' clearinghouse for the 2.1 GHz band" as to any dealings it may have with M2Z.³² We find, however, that M2Z has failed to present any evidence that would warrant either reconsideration of our decision to select CTIA or removal of CTIA as one of the clearinghouse administrators. We note that clearinghouses carry out the largely administrative task of applying the Commission's cost-sharing formula and M2Z has not alleged or demonstrated any particular misconduct that would compel us to question CTIA's ability to act as a neutral arbiter in operating the clearinghouse. As discussed in the *Clearinghouse Order*, CTIA has stated that it will act impartially on all requests and will establish safeguards to ensure that "all actions taken by the clearinghouse are fair and impartial."³³ Filing comments with which M2Z disagrees in proceedings before the Commission provides no evidence that CTIA would be biased against M2Z when carrying out its clearinghouse functions. Further, we find M2Z's allegations of bias even less persuasive given that CTIA's filings were unrelated to AWS cost sharing and considering that M2Z is a member of CTIA.³⁴

8. Though not controlling in addressing M2Z's allegation of bias against a third party, we can look to the test the Commission has previously used in deciding whether recusal of an FCC decisionmaker is appropriate in a particular situation on the grounds of bias or the appearance of bias; namely, whether "a disinterested observer may conclude that the [decisionmaker] has in some measure adjudged the facts as well as the law of a case in advance of hearing it."³⁵ In the *Mobex* proceeding, the

²⁸ M2Z Petition at 3-4 (stating that M2Z, "as a potential licensee of spectrum covered under the 2.1 GHz relocation requirements, has a significant interest in the designation of clearinghouse providers for the 2.1 GHz band and is an 'interested person' for purposes of section 1.429(a)").

²⁹ As explained in note 16, *supra*, on August 31, 2007, the Commission dismissed M2Z's Application and denied M2Z's Forbearance Petition. See *AWS-3 Applications and Forbearance Petitions Order*. Nonetheless, our analysis today is based on the facts pled in the Petition because the *Order* is subject to review, and the Commission dismissed M2Z's Application without prejudice.

³⁰ See 47 C.F.R. § 1.41 (Informal requests for Commission action).

³¹ See *Clearinghouse Order* at 22 FCC Rcd at 4684 ¶ 9.

³² M2Z Petition at 5.

³³ CTIA Proposal at 14.

³⁴ The fact that CTIA has taken an action unrelated to AWS cost sharing that is favored by some of its members and opposed by others is not evidence that CTIA has prejudged any cost-sharing matter in which, *arguendo*, M2Z has a cognizable interest.

³⁵ In re Applications of Liberty Productions, MM Docket No. 88-577, *Order*, 16 FCC Rcd 18966, 18973 ¶ 19 (2001), citing *Metropolitan Council of NAACP Branches v. FCC*, 46 F.3d 1154, 1164-65 (D.C. Cir. 1998).

WTB applied this test when it rejected the petitioner's assertion that division staff might not be impartial and objective in deciding an order based on the petitioner's belief that the staff had made errors in the past with respect to the petitioner's position and, upon those errors being pointed out and acting as an interested party, had defended its clear error resulting in harm to the petitioner.³⁶

9. In this case, M2Z has not proffered any evidence that CTIA or its staff has prejudged a particular issue that may come before it. Nor has M2Z produced any evidence that CTIA will express any alleged bias through its operation of the clearinghouse. It is not even certain that M2Z will ever need to work with CTIA as a clearinghouse – even if it ultimately becomes a licensee subject to cost-sharing in the relevant spectrum bands. Because the Bureau granted authority to multiple clearinghouses, M2Z can choose to work with the other clearinghouse, operated by PCIA.

10. M2Z also argues that one clearinghouse administrator could handle all of the clearinghouse responsibilities.³⁷ Simply because it is possible to have only one clearinghouse administrator does not mean that it is the best outcome for competition or customers. In the *Clearinghouse PN*, the Bureau concluded that the benefits of having two or more clearinghouses outweigh any disadvantages because offering participants a choice increases the incentive for all clearinghouses to operate in an efficient manner, thus benefiting the consumers of these services.³⁸ We continue to believe that offering participants a choice of clearinghouse administrators is in the public interest and we therefore affirm our decision to select both CTIA and PCIA as clearinghouse administrators. Further, because M2Z has not demonstrated any misconduct by CTIA in its role as an AWS clearinghouse, or any bias against M2Z, we find no basis for revoking CTIA's designation as a clearinghouse administrator.³⁹

11. Therefore, for the reasons stated above, we deny M2Z's petition for reconsideration.

B. SBE Petition

12. We next consider SBE's petition. In its petition, SBE asserts that the FCC's out of band emission (OOBE) suppression requirements for AWS base station transmitters present an interference threat to TV Broadcast Auxiliary Service (BAS) operations in the 2025-2110 MHz band. SBE asks that the Commission adopt more stringent OOBE suppression requirements and also impose restrictions on how closely an AWS base station can be built to electronic news gathering receive-only (ENG-RO) sites.

13. SBE notes that it had previously filed comments and reply comments to the AWS 2 rulemaking, WT docket number 04-356, and that the *AWS-2 Notice of Proposed Rulemaking*, released on

³⁶ In the matter of Applications of Mobex Network Services, LLC, *Order on Reconsideration*, 22 FCC Rcd 665, 671-72 ¶ 15 (WTB 2007). See also, In the matter of Application of Maritime Communications/Land Mobile LLC, *Order on Reconsideration*, 22 FCC Rcd 4780, 4687 ¶ 12 n.58 (WTB 2007), stating that “[p]ast adverse decisions against a party are not evidence of bias.” *Id.*

³⁷ M2Z Petition at 8-9.

³⁸ See *Qualification PN* at 21 FCC Rcd at 11266.

³⁹ We note that in the *Clearinghouse Order* the Commission reserved the discretion to add or delete clearinghouse selections at a later date if circumstances indicate that such action is warranted. Specifically, we stated that our “selection of CTIA or PCIA may be terminated by the Commission for cause at any time, upon sixty (60) days written notice, or suspended for up to 90 days, upon ten (10) days written notice.” See 22 FCC Rcd at 4690 ¶ 26. We will act accordingly if there is any evidence that the clearinghouse administrator has failed “to perform its duties and responsibilities in accordance with the Commission’s rules and policies and/or the instant Order.” *Id.*

September 24, 2004, bore a caption listing two WT docket numbers, 04-356 and 02-353.⁴⁰ SBE stated that it believed that these comments would be addressed in the *Clearinghouse Order* because the Order addressed the issue of AWS interference into TV BAS operations at 2025-2110 MHz.⁴¹ SBE asks that its comments be addressed on reconsideration of the *Clearinghouse Order*, or in the alternative, that the Commission clarify that the order resolving the *AWS-2 Notice of Proposed Rulemaking* “will fully address the SBE comments, and that the [*Clearinghouse Order*] does not constitute a decision that a tighter OOB mask for AWS base stations won’t be required, or that there will be no restriction on how closely an AWS base station can be situated to an ENG-RO site.”⁴²

14. T-Mobile urges the Commission to dismiss SBE’s petition because it is procedurally deficient, arguing specifically that the SBE petition is not relevant to the *Clearinghouse Order*.⁴³ T-Mobile points out that in its petition, SBE is seeking to have the Commission change the AWS service rules for the 1.7/2.1 GHz bands. These service rules were adopted on November 25, 2003,⁴⁴ and SBE did not challenge that order by filing a petition for reconsideration of the issue.

15. In its reply to T-Mobile’s opposition, SBE states that its petition was timely filed. SBE argues that “when the Commission chose to combine the WT Docket 02-353 rulemaking into the WT Docket 04-356 NPRM, it provided a new opportunity for all interested parties to file comments regarding AWS stations in all of the AWS bands from 1.7 to 2.1 GHz.”⁴⁵

16. *Discussion.* We find that the issues raised by SBE in its petition for reconsideration are unrelated to, and not within the scope of, any of the substantive decisions made on delegated authority in the *Clearinghouse Order* issued on March 8, 2007. Furthermore, the *Clearinghouse Order* was released by the Bureau under delegated authority and SBE’s request for rule changes exceeds the Bureau’s delegated authority.⁴⁶ To the extent that SBE’s comments raise issues concerning the AWS 1 spectrum, the right to request review of decisions made in the *AWS-1 Service Rules Order* has expired. The filing of petitions for reconsideration in rulemaking proceedings is governed by Section 1.429 of the Commission’s Rules,⁴⁷ which requires a petition for reconsideration to “filed within 30 days from the date of public notice of such action.”⁴⁸ Petitions for reconsideration of the *AWS-1 Service Rules Order*

⁴⁰ SBE Petition at 2. See Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands, WT Docket No. 04-356, Services Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, *Notice of Proposed Rulemaking*, 19 FCC Rcd 19263 (2004) (*AWS-2 Notice of Proposed Rulemaking*).

⁴¹ SBE Petition at 2.

⁴² SBE Petition at 3.

⁴³ T-Mobile Opposition at 2.

⁴⁴ Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, *Report and Order*, 18 FCC Rcd 25162 (2003) (*AWS-1 Service Rules Order*); *Order on Reconsideration*, 20 FCC Rcd 14058 (2005).

⁴⁵ SBE Reply at 2.

⁴⁶ See *AWS Relocation and Cost Sharing Report and Order* at 21 FCC Rcd at 4527 ¶¶ 106-107; see also, 47 C.F.R. § 0.331(d).

⁴⁷ 47 C.F.R. § 1.429.

⁴⁸ 47 C.F.R. 1.429(d).

were due on March 8, 2004, and resolved on August 15, 2005, with the release of the *Order on Reconsideration*.⁴⁹ Thus, to the extent that SBE raises issues that were decided in the *AWS-1 Service Rules Order*, SBE's petition will be considered an untimely petition for reconsideration of the 2003 *AWS-1 Service Rules Order* and, therefore, must be denied. In addition, as the Commission has previously decided, "indirect challenges to Commission decisions that were adopted in proceedings in which the right to review has expired are considered impermissible collateral attacks and are properly denied."⁵⁰

17. We note that SBE's comments that are the subject of its petition for reconsideration were filed in the AWS-2 proceeding, WT Docket Number 04-356.⁵¹ To the extent that SBE's comments pertain to issues raised in the AWS-2 proceeding and relate to the AWS-2 spectrum, SBE's comments will be addressed in that proceeding.⁵²

18. We thus dismiss SBE's petition because it is not a proper petition for reconsideration of the *Clearinghouse Order*.

IV. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED that the Petition for Reconsideration filed by M2Z Networks, Inc., on April 9, 2007, IS DENIED.

20. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by the Society of Broadcast Engineers, Incorporated, on April 4, 2007, IS DISMISSED.

21. This action is taken under delegated authority pursuant to Sections 0.131, 0.331, 27.1162, and 27.1178 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, 27.1162, 27.1178.

FEDERAL COMMUNICATIONS COMMISSION

Fred B. Campbell, Jr.
Chief, Wireless Telecommunications Bureau

⁴⁹ See *AWS-1 Service Rules Order on Reconsideration*.

⁵⁰ Motions for Declaratory Ruling Regarding Commission Rules and Policies for Frequency Coordination in the Private Land Mobile Radio Services, 14 FCC Rcd 12752, 12757 ¶ 11 (1999), citing *MCI Telecommunications Corp. v. Pacific Northwest Bell Telephone Co.*, *Memorandum Opinion and Order*, 5 FCC Rcd 216, ¶ 41 n.38 (1990), *recon. denied*, 5 FCC Rcd 3462 (1990), *appeal dismissed sub nom. Mountain States Tel. and Tel. Co. v. FCC*, 951 F.2d 1259 (10th Cir. 1991) (*per curiam*).

⁵¹ See SBE's Petition, Attachments 5 and 6.

⁵² We further note that SBE's Petition and Reply and T-Mobile's Opposition to SBE's Petition have also been filed in WT Docket No. 04-356.

APPENDIX A: LIST OF COMMENTERSPetitions for Reconsideration

M2Z Networks, Inc. (M2Z)

Society of Broadcast Engineers, Incorporated (SBE)

Oppositions/Replies

T-Mobile USA, Inc. (T-Mobile)

Society of Broadcast Engineers, Incorporated (SBE)

Ex Parte Communications

T-Mobile (August 24, 2007)